

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

Crl.MC.No. 10677 of 2002(D)

ST.6565/2000 of JUDL. MAGISTRATE OF FIRST CLASS COURT,
PARAPPANANGADI

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PETITIONER: ACCUSED:

SAIDALAVI, AGED 28 YEARS,
S/O. KUNHIMU, CHALIL HOUSE, VENGARA AMSOM DESOM,
PAKKADA PURAYA.

BY ADV. SMT.SANGEETHA LAKSHMANA

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM(ST.6565/2000 OF
JFCMC, PARAPANANGADI, BASED ON CRIME NO.194/2000
OF TIRURANGADI POLICE STATION, MALAPPURAM).

BY ADV. SRI. C.M. KAMAPPU, PUBLIC PROSECUTOR
SRI.JOHN VARGHESE, ASSISTANT SG

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 10/01/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

ORDER ON CRL. M.P. NO. 8320/2002 IN CRL.M.C. NO. 10677/2002

DISMISSED

10.01.2007

SD/- K.R. UDAYABHANU, JUDGE

/True Copy/

P.A. to Judge.

K.R. UDAYABHANU, J

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Dated this the 9th day of January 2007

ORDER

The petitioner has sought for getting quashed the proceedings initiated under section 185 and section 3(1) r/w section 181 of Motor Vehicles Act vide S.T. No. 6565/ 2000 in the court of JFCM, Parapanangadi on the allegation that he was found driving an auto-rickshaw in a drunken state. It is the case of the petitioner that he has not been subjected to a breath analyser test as is contemplated under section 185 nor was he subjected to a blood test to determine quantity of alcohol in his blood stream. Ofcourse, his case is that he was not driving the vehicle at all. The petitioner has also produced the decision reported in **Rajavalse M v.State** (1999 CRI.L.J.4 58 (Karnataka High Court)) in this regard. The petitioner has also produced the copy of the medical certificate issued by the Civil Surgeon of the Government Hospital, Parapanangadi from which it can be seen the petitioner was not subjected to the breath analyser test or blood test. The observation of the Doctor is that he has consumed alcohol but is not under the influence of it.

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2. In the circumstances, I find that the proceedings initiated against the petitioner under section 185 amounts to infraction of the above provision. Hence charge under section 185 of Motor Vehicles Act 1988 is herewith quashed. The petitioner would stand trial for the rest of the charges.

The Crl. M.C is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

RV